Acquiring Services
sing Multiple Award Instrume
Under Section 803

Oct 25, 2002

THE PROBLEM

Congress believes that the Department of Defense is not following Congressional intent with respect to competition in the awarding of task orders for services using multiple award instruments

Abbreviations Defined

- FSS – Federal Supply Schedule
- MAS – Multiple Award Schedules
- MAC – Multi-Agency Contract
- GWAC – Government-Wide Acquisition Contract
- IDIQ – Indefinite Delivery/Indefinite Quantity
- BPA – Basic Purchasing Agreement
- BOA – Basic Ordering Agreement

Background
A History Since FASA

- FASA permitted task orders using multiple award instruments
- Law requires all multiple award contractors be given “Fair Opportunity” to compete for task orders
- Only 4 specific exceptions to “Fair Opportunity” [FAR 16.505(b)(2)]

FAIR OPPORTUNITY EXCEPTIONS

JUSTIFICATIONS FOR RESTRICTING COMPETITION

- Agency's need is of such unusual urgency that providing an opportunity to all awardees would result in unacceptable delays
- Only one source is capable of responding due to the unique or specialized nature of the work
- The new work is a logical follow-on to an existing task order under the same contract where contractors were given a fair opportunity to be considered
- The order must be placed with a particular contractor in order to satisfy a minimum guarantee.

FAR Case 99-303
Task and Delivery Order Contracts

- In FAC 9
- Will also provide additional regulatory guidance resulting from Pub. L. 106-65
- The rule provides definitions and specific policies on the appropriate use of Government-wide acquisition contracts (GWACs), and Multi-agency contracts (MACs).

Section 803

Section 803 of P.L. 107-107 requires DoD to issue DFARS policy requiring competition in the purchase of services under multiple award contracts.

Section 803
FSS Orders

For FSS orders for services over $100,000 the CO must EITHER

- **Issue the notice to as many schedule holders as practicable, consistent with market research appropriate to the circumstances, to reasonably ensure that proposals will be received from at least 3 sources that offer the required work.**
- **OR Contact all schedule holders that offer the required work by informing them of the opportunity for award**

Market research is key. COs must understand which schedule contractors can do the work.

Section 803
FSS Orders

- **If less than 3 proposals are received, the CO must document why reasonable efforts would not result in more offers. COs have discretion, but it is linked to good market research.**

- **The only exceptions to “fair opportunity” are the 4 exceptions specified under FASA**

Section 803 Contracts Other than FSS

For orders for services over $100,000

- **All awardees that offer the required work must be provide a copy of the description of work, the basis upon which the contracting officer will make the selection, and given the opportunity to submit a proposal .**
- **The CO must consider all proposals submitted.**
- **The only exceptions to “fair opportunity” are the 4 exceptions specified under FASA**

Summary

Section 803 addresses task orders for services

Policy has changed

Emphasis is on increasing competition

When in doubt – provide all qualified contractors the opportunity to be considered for award

Questions?

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